Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition to Amend Part 68 of the	)	
Commission's Rules to Include	)	RM-6147
Terminal Equipment Connected to	)	
Public Switched Digital Service	)	

93-268

REPLY COMMENTS OF IDCMA

The Independent Data Communications Manufacturers Association, Inc. ("IDCMA"), by its attorneys, hereby replies to the comments submitted December 9, 1987, in response to the above-captioned Petition for Rulemaking. In its Petition, Ameritech has proposed that the Commission expand Part 68 to encompass customer-premises equipment ("CPE") connected to public switched digital services ("PSDS"). In comments on the Petition, American Telephone and Telegraph Company ("AT&T") has supported Ameritech's proposal; BellSouth has supported it to some extent but asked that it be held "in abeyance"; and the operating companies of U S West ("MTN et al.") oppose the petition. IDCMA supports Ameritech's stated objective and urges the Commission to initiate an appropriate rulemaking proceeding.

IDCMA has strongly and consistently supported the Part 68 equipment registration program.[1] The Hush-A-Phone decision is over thirty years old,[2] and the Carterfone decision is almost twenty years old,[3] but the explosive growth of CPE competition has occurred predominantly during the past decade, i.e., since the establishment of Part 68. The registration program deserves much of the credit for today's CPE environment, in which hundreds if not thousands of manufacturers vigorously compete. The public reaps many rewards from this competition in the form of lower prices, wider choices, increased innovation, better service, etc.

Though limited at its inception, Part 68 has gradually been expanded to encompass a broad array of equipment connected to a wide variety of services. Each extension of Part 68 has stimulated competition for CPE used with

---

1/ The facts presented by IDCMA in Docket 19419 were incorporated into Docket 19528, where the registration program was created. IDCMA's support for the program has continued faithfully to the present time. See Attachment A, which responds to an NWB et al. contention, repeated again in NWB's response to Ameritech's Petition, that Part 68 was intended as a "transitory" program and is less important now than in the past. See NWB et al. Opposition at 11.

2/ Hush-A-Phone Corp. v. U.S., 238 F.2d 266 (D.C. Cir. 1956).

3/ Carterfone, 13 FCC 2d 420, recon. denied, 14 FCC 2d 571 (1968).

the affected service, and CPE manufacturers have invariably delivered better products, at lower prices, than were available before competition was introduced. As new services emerge, Part 68 can and should continue to play a vital role in promoting a competitive environment.

It is these considerations that most influence IDCMA's reaction to Ameritech's Petition and that lead IDCMA to the conclusion that the Commission should respond favorably to Ameritech's request. Other factors tend to strengthen this conclusion. There seems to be a genuine opportunity for growth in switched digital services, and extension of the registration program as requested may also help to stimulate demand for such services, particularly now that communications can be effectuated between users connected to switches that use differing PSDS implementations.[4] Further, there is no inherent reason why a program that currently applies to equipment connected to switched analog services and private line digital services should not also be extended to equipment connected to switched digital services.

4/ Although MTN et al. claim that Ameritech's proposal "would sanction CPE incompatibility," MTN et al. Opposition at 2, the truth is that there is now no impediment to communications between CPE designed for use with AT&T's Circuit Switched Digital Capability and CPE used with Northern Telecom's Datapath.

For a variety of reasons, IDCMA has not yet had an opportunity to conduct a thorough review of the details of Ameritech's proposal nor of AT&T's proposed revisions to that proposal. IDCMA is prepared, however, to support the thrust of Ameritech's petition and to commend both Ameritech and AT&T for bringing a constructive approach to the issue. At the same time, IDCMA must strongly oppose the major themes of the pleadings filed by BellSouth and MTN et al.

Although their pleadings are packaged somewhat differently, both BellSouth and the U S West companies unite on two major points, one substantive and one procedural. The substantive contention is that "technology-dependent" and "media-dependent" interfaces are inconsistent with the public interest.[5] The procedural argument is that the Commission should not initiate a rulemaking but instead permit the issue of PSDS connection to be considered by the Exchange Carriers Standards Association's T1 Committee.[6] Both arguments are meritless.

As a substantive matter, the objections to "technology-dependent" interfaces merely echo tired

---

5/ See BellSouth Comments at 3 n.2; MTN et al. Opposition at 2, 5, 6, 10.

6/ See BellSouth Comments at 4; MTN et al. Opposition at 7-9.

arguments -- calling for "stable interfaces" -- that have regularly been invoked in opposition to CPE competition. Indeed, these arguments were raised by the carriers in defense of their protective coupler requirements (e.g., data access arrangements) prior to the adoption of Part 68 and, more recently, in such contexts as 1.544 Mbps digital private line service and integrated services digital networks.[7] These arguments have not proved persuasive in the past, and they are not persuasive here. The carriers' "solution" to the "problem" of media- or technology-dependent interfaces is to deploy, at the customer's premises, some equipment that "insulates" the customer from changes in loop technologies or media and presents a "stable interface" to the consumer. Invariably, this "solution" involves subsuming CPE functions in "network" equipment. Put another way, the same functionalities continue to be used at the customer's premises, but by calling it "network" equipment the carrier eliminates competition for these CPE functionalities.

At times, this "stable interface" argument has been pressed so far as to suggest that the EIA-232 interface

---

7/ See, e.g., IDCMA Opposition to Petitions for Reconsideration, CC Docket No. 81-216, at 10-11 (Aug. 24, 1983).

should be the network boundary, an obviously absurd proposition that would convert modems -- the first equipment included in the Part 68 program -- into part of the network monopoly. The Commission has never accepted such an argument in the past and should not do so now.

The procedural suggestion of BellSouth and the U S West companies is closely related to their substantive argument. BellSouth's and MTN et al.'s desire to have interconnection matters decided by the T1 Committee rather than by the Commission presumably stems from their recognition that the T1 Committee is decidedly more hospitable to the "stable interface" argument than is the Commission. They are also aware that T1 deliberations are influenced more by carriers and their suppliers than by independent CPE manufacturers, and that T1 decisions are not necessarily based upon an overriding concern for consistency with the Commission's pro-competitive policies.

Of course, the T1 Committee is free to consider issues relating to PSDS, but this need not delay the issuance of a notice of proposed rulemaking on the same topic. There is plenty of time for additional facts and considerations to be developed and presented in the course

of the rulemaking proceeding,[8] but there is absolutely no justification for BellSouth's and the U S West companies' request to hold Ameritech's rulemaking petition in abeyance.[9] The consequences for CPE competition would be nothing short of disastrous were the Commission to abdicate its Part 68 responsibilities and cede authority over equipment interconnection issues to the T1 Committee.[10]

8/ In this regard, neither BellSouth nor MTN et al. has been as forthcoming or as constructive as might have been expected. For example, BellSouth claims that Ameritech's proposed standards would not only provide "harms to the network" protections but also establish "performance standards," BellSouth Comments at 2, 3, but no effort is made to identify which of the proposed rules fall into which category. Similarly, the U S West companies claim that Ameritech's assertion of potential network harm "has not been supported" or "quantif[ied"], MTN et al. Opposition at 4, 5, but they do not dispute that the potential exists. In the same vein, MTN et al. fault Ameritech for not taking into account the Universal Switched Digital Capability developed by Integrated Network Corporation ("INC"), id. at 3-4, 5, but no suggestions are offered for rules that would accommodate the INC implementation.

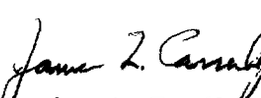
9/ BellSouth indicates that the T1 Committee has already proved to be "unable to develop a single set of performance specifications for PSDS . . . ." BellSouth Comments at 4. This makes it particularly inappropriate to suggest that PSDS standards should not only be deferred but also melded in with standards for entirely separate services such as integrated services digital networks and data-over-voice services. See BellSouth Comments at 3-4.

10/ The U S West companies strongly suggest that the T1 Committee is more capable than the Commission of considering "the interests of all affected parties." See MTN et al. Opposition at 8-9. Any such implication is self-evidently absurd.

Ameritech's proposal to extend Part 68 to equipment for connection to public switched digital services is ripe for consideration by the Commission. IDCMA urges the Commission to proceed with the initiation of a rulemaking proceeding to permit further consideration of specific Part 68 amendments.

Respectfully submitted,

INDEPENDENT DATA COMMUNICATIONS MANUFACTURERS ASSOCIATION, INC.



Herbert E. Marks
James L. Casserly
SQUIRE, SANDERS & DEMPSEY
1201 Pennsylvania Avenue, N.W.
Post Office Box 407
Washington, D.C. 20044
(202) 626-6600

Its Attorneys

December 24, 1987